

REMARKS

The October 5, 2009 Office Action regarding the above-identified application has been carefully considered; and the claim amendments above together with the remarks that follow are presented in a bona fide effort to respond thereto and address all issues raised in that Action.

Care has been taken to avoid entry of new matter. Claims 46, 47, 49-61 and 63-73 have been cancelled to reduce issues. Remaining independent claim 74 has amended to more clearly distinguish the claimed subject matter over art as applied in the latest Office Action. The independent cellular device claim (74) has been amended to somewhat further emphasize that the functions of the groupings are functions offered by that specific type of device. Examples of the groupings of functions of the cellular device, disclosed in the present application, include messaging 224, contacts 226, recent calls 228 and settings & tools 230. Attention is directed to FIGS. 3c and 4a-4c, and to the discussion of those examples in the detailed description.

For reasons discussed below, it is believed that this case is in condition for allowance. Prompt favorable reconsideration of this amended application is requested.

The Office Action included a rejection of claims 46, 47, 49-61, 63-75 and 77-87 under 35 U.S.C. §103(a) as unpatentable over U.S. Publication No. 2004/0051741 to Venturino in view of U.S. Publication No. 2005/0076312 to Gardner et al. (hereinafter Gardner). Applicants respectfully traverse the art rejection, particularly with respect to remaining independent claim 74 and its dependent claims 75 and 77-87.

Venturino discloses a tabbed menu arrangement for a digital camera display. There is a brief suggestion to adapt the menu to a cell phone, but the specific device functions displayed in the menu relate to camera operations, not the cell phone functions positively recited in independent claim 74. As a result, Venturino does not in fact meet claim requirements for a first

level menu providing a plurality of functional groupings where (a) each of the functional groupings represents a different group of cellular device functions offered by the cellularly communicative electronic device, **and** (b) those cellular device functional groupings specifically include call messaging, contacts list, obtaining device services, recent calls, and settings and tools. Also, the Examiner acknowledges that Venturino does not meet the dynamically assignable key requirements of the latest claims.

The rejection cites Gardner for an alleged disclosure of the function key separate from alphanumeric keys, but Gardner apparently relates to point and click functions in the context of a menu structure. It is submitted that Gardner does not really teach aspects of the user interface recited in the claims, such as the dynamically assignable function key as part of the device keypad arrangement or the various cell phone functions mentioned in the claims.

The Gardner publication discloses a software utility navigation aid for hierarchical structures such as file managers, taxonomies, or tables of contents that displays a dynamic menu when the mouse cursor is hovered over an activator used to swap the expanded/collapsed state of a node displayed in a hierarchical structure (see Abstract). The menu contains entries that identify in which display level of expansion the node resides based on the structure's fully collapsed condition (from the root node), the number of display levels to which this branch of the hierarchy can be expanded, and the number of nodes that will be exposed when this branch is expanded to each of those levels. Each displayed entry in this menu, positioned both below and above the identified node, can be clicked to cause the hierarchical structure to expand or collapse to that display level. Gardner does not mention a cell phone or the like, only a computer.

As such, Gardner does not really teach addition of a dynamically assignable function key, of the type recited in claim 74, to the device of Venturino. Contrary to the rejection, the Gardner

disclosure of a dynamically generated **menu display** for point and click activation does not actually teach inclusion of a dynamically assignable function **key** in a **device keypad**, where the dynamically assignable function key is not one of the alpha or numeric keys of the keypad, as claimed.

Furthermore, the computer teachings of Gardner would not teach a modification of Venturino either to meet the cellular device functional grouping requirements or the requirement to assign a cellular device function to a dynamically assignable function key and then perform the cellular device function upon user activation of such a key.

For at least these reasons, the combination of Venturino and Gardner, proposed in the art rejection, does not really teach the specific menu structure and dynamically assigned function key for use in selecting a function or the like of a cellular device, now quite clearly recited in the independent claim. Hence, that combination would not result in a cellularly communicative electronic device that satisfies all of the requirements of pending independent claim 74. Applicants therefore submit that claim 74 as well as dependent claims 75 and 77-87 patentably distinguish over Venturino and Gardner and the rejection over Venturino and Gardner should be withdrawn.

Upon entry of the above claim amendments, claims 74, 75 and 77-87 remain active in this application, all of which should be novel and patentable over the art applied in the Action. Applicants therefore submit that all of the claims are in condition for allowance. Accordingly, this case should now be ready to pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the October 5, 2009 Office Action. However, if any further issue should arise that may be addressed in an interview or by

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an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in black ink, appearing to read "Keith E. George", is written over a horizontal line.

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